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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-seventh session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Joint written statement submitted by Habitat International Coalition, a non-governmental organization in consultative status (category II) and Foodfirst Information and Action Network (FIAN), a non-governmental organization on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social resolution 1296 (XLIV).

[16 August 1995]

An optional protocol to the International Covenant on Economic, Social and Cultural Rights

1. Thirty years after the adoption of the International Covenant on Economic, Social and Cultural Rights in 1966, and 20 years after it entered into force in 1976, the time has come to agree on an optional protocol to the Covenant which will provide for an individual complaint procedure.

2. The agreement reached in the final document of the World Conference on Human Rights in Vienna in 1993 emphasizes that all human rights are indivisible and interrelated and that they should be implemented with the same intensity. It follows that an optional protocol is a necessary tool for the concrete implementation of economic, social and cultural rights.

3. The Committee on Economic, Social and Cultural Rights has been asked to report to the Commission on Human Rights in 1996 about the status of preparation of an optional protocol.

4. The experiences of FIAN - the international human rights organization for the right to feed oneself - and of Habitat International Coalition (HIC) - the international NGO coalition for housing rights - show the necessity of an individual complaint procedure.

5. An optional protocol is necessary because:

(a) The current mechanisms of monitoring States' compliance with the Covenant are insufficient, particularly because it is impossible to investigate concrete cases of violations of the rights contained in the Covenant;

(b) Concrete disputes will be raised and investigation of individual situations will allow for deeper analysis of States' obligations and of legal provisions of the Covenant that otherwise could not be achieved;

(c) A more precise analysis of States' obligations will lead to a better understanding of the rights contained in the Covenant, and this will improve understanding of how these rights can be implemented through national legislation and administrative practices;

(d) The possibility of a detailed legal interpretation of the rights will strengthen recognition of economic, social and cultural human rights at the international level generally. This process will improve respect for and protection and fulfilment of these rights for everyone;

(e) The adoption of an optional protocol is a step - long overdue - to put an end to the uneven treatment that economic, social and cultural human rights have enjoyed in the United Nations system in terms of their protection and implementation;

(f) Individuals and groups will be encouraged to formulate their complaints more precisely and to work towards the realization of their human rights.

6. In its work for the right to adequate food and housing FIAN and HIC constantly experience the interrelatedness of the human rights to food, shelter, health and healthy and fair working conditions, to work, to organize collectively, to freedom of expression and cultural identity. Most frequently, in situations of human rights violations several rights are violated and the violation of or non-compliance with one right often impedes the fulfilment of other rights.

7. The experiences of FIAN and HIC show that the realization of the individual right to feed oneself essentially depends on access to available resources. The access to necessary resources on a household level cannot be verified on an individual basis only, but must be seen in the context of the access to resources for the whole family or a group. Individual and collective rights are linked in the defence of the right to feed oneself (and other rights) particularly for indigenous communities and pastoralists. With respect to healthy and fair working conditions, violations of minimum provisions are also often relevant for larger groups.

8. Future threat to or violations of human rights of affected people can often be detected early in the planning process of policy measures or projects. Particularly in large development projects - e.g. supported by the World Bank - adequate rehabilitation and resettlement have not been dealt with satisfactorily, and this can lead to forced evictions and violations of several economic, social and cultural human rights.

9. Therefore, FIAN and HIC demand that:

(a) An optional protocol to the International Covenant on Economic, Social and Cultural Rights should cover all rights contained in the Covenant. A distinction between more important or less important rights is contrary to FIAN's experiences, as well as contrary to the spirit of the Covenant itself and the International Bill of Rights as a whole. Every right contained in the Covenant carries States' obligations, including the obligation to respect and protect these rights, two dimensions which can be transferred directly into national legislation and jurisdiction. Every procedure of ratification which would allow States to limit the acceptance of individual complaint procedures to some of the rights in the Covenant disregards the interrelatedness of all human rights. Therefore, instead of a strengthening of the rights of the Covenant such procedures would weaken all rights. The Vienna Declaration and Programme of Action stated: "All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis" (part I, para. 5);

(b) Any complaint procedure should be open to petitions from individuals, from victim groups, and from supporting non-governmental organizations;

(c) The complaint procedure should be open for petitions related to ongoing policy measures or projects (financed with national or international funds), whose realization will or can cause violations of the rights contained in the Covenant. While these complaints are pending the individual or groups that file the complaint should have legal protection and a moratorium for the relevant policy measure or project should be declared until the final decision about the complaint is taken.

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[16 August 1995]

Violations of the right to adequate food and housing

1. FIAN-International and Habitat International Coalition (HIC) provide herewith short documentation about two very recent, severe violations of the right to feed oneself and the right to housing in Brazil and in Honduras. Both organizations ask the Sub-Commission to take adequate steps in reacting to these violations of economic, social and cultural rights.

I. BIGGEST MASSACRE OF LANDLESS PEASANTS IN RONDONIA, BRAZIL

2. On 8 and 9 August 1995 the police of the Brazilian State of Rondonia evicted 1,300 landless individuals who had occupied the Hacienda Sta. Eline, municipio Corumbiara, a short time earlier. According to the information available, the police action was unbelievably violent: 40 people were killed,

500 are still missing, 200 people are detained in the sports stadium of Coloradeo do oeste, 150 people are kept in police stations and have presumably been tortured, 180 children and women are detained in church houses and around 100 people are seriously wounded in hospitals.

3. Witnesses have reported that the area looks like a battlefield. Nobody is left on Hacienda Sta. Eline. This type of violent action against landless peasants' land occupation, even by Brazilian standards, is unprecedented. In Brazil, the agrarian reform law is still not implemented in any substantial way. Only some 10,000 hectares have been distributed to landless families during the last 10 years.

4. The eviction of these landless families occurred with force and unbelievable violence. FIAN and HIC are deeply concerned about this action. FIAN and HIC ask the Sub-Commission to ask the Brazilian Government to take all necessary measures to immediately release the detained persons, to stop all forms of torture, to investigate where all the missing people are, and to take legal actions against the police officers responsible for the operation and the killings. Moreover, the Brazilian Government should use the maximum of its available resources to find a solution for the situation of landless families in Rondonia and all over Brazil. The agrarian reform is a long-standing objective of Brazilian policy but has not been implemented in any reasonable way. This type of massacre is related to the ongoing violations of the fundamental human right to have access to resources to feed themselves for landless families in Brazil.

II. FORCED EVICTION OF BANANA WORKERS IN TACAMICHE, HONDURAS

5. On 26 July, 500 armed members of the Honduran security forces evicted families of agricultural workers in Tacamiche, a small village in the northern part of Honduras. The community of Tacamiche, with its infrastructure and around 460 people, has existed for many years. The adults are former employees of the Tela Railroad Company, the Honduran subsidiary of the multinational fruit company Chiquita. With the argument that the banana farm lost its profitability, the plantation was closed and the people asked to leave. The closing of the Tacamiche farm is related to several closures of farms which Chiquita announced during a strike of plantation workers last year. Out of 26 plantations Chiquita closed 4. In three farms the employees followed the instruction of Chiquita and left the farms. Because the people of Tacamiche did not agree to relocate their homes and land with an uncertain future, the company asked the State for support. The National Institute for Agrarian Reform (INA) gave an eviction order with the explicit agreement of President Carlos Roberto Reina. The common action of soldiers of the 105th brigade and the police forces on 26 July occurred with massive violence and the use of tear-gas. Several members of the community were beaten and wounded. The cornfields were destroyed. Thirty-eight people were detained temporarily. The press gave detailed reports about the incidents in Tacamiche and about the brutal action of the security forces.

6. After the action a "compromise" was reached between the community and the State's representatives: the people have been allowed to stay on another 60 days (up to 26 September) in Tacamiche. Then eviction will be imminent. In a press release President Reina addressed the people of Tacamiche and

explained that the eviction was nothing other "than a step on the way to obtain a solution to the land conflict, which is legal and just". The procedure followed so far has nothing in common with legality and justice. First, according to the information of the responsible judge from San Pedro Sula, so far the Tela Railroad Company has been unable to show a land title, a fact which supports the opinion of the community that the land is State owned. Secondly, the eviction order was not released by a responsible court, but by INA, which acted under pressure from the banana company. Thirdly, the economic and social rights of the banana workers, especially their right to feed themselves and their housing rights, have already been neglected. Even the Human Rights Commissioner of Honduras, Leo Valladres, judged the event as a call "to find a solution for the fundamental problems of Honduras, like the right to housing, access to land and the right to work".

7. FIAN and HIC are deeply concerned about the procedures in Tacamiche and both organizations ask the Sub-Commission to ask the Government of Honduras to take all necessary measures:

(a) To investigate thoroughly who holds the title to the land - whether it really is in the possession of the Tela Railroad Company or the State; and

(b) To respect and fulfil the right that the people of Tacamiche have to feed themselves and the right to housing, by finding a solution so that the people can continue to stay, live and work in Tacamiche.

8. FIAN and HIC would like to remind the Government of Honduras of the obligations that the Government has entered into by ratifying the International Covenant on Economic, Social and Cultural Rights. The words of the Commissioner for Human Rights in Honduras support the fulfilment of these obligations. Therefore, FIAN and HIC hope that the conflict in Tacamiche will be solved in a way that is in accordance with respect for the human rights of the affected people.